

North Canton City Council  
Ordinance, Rules and Claims Committee

Ordinance No. 50 - 2018

An ordinance to approve and adopt current replacement pages to the Codified Ordinances, and declaring the same to be an emergency.

WHEREAS, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and

WHEREAS, various ordinances of a general and permanent nature have been passed which should be included in the Codified Ordinances; and

WHEREAS, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before Council in the form of replacement pages to the Codified Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

- Section 1. That, in accordance with Ohio R.C. 731.23, the ordinances of the City of North Canton, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2018 Replacement Pages to the Codified Ordinances are hereby approved and adopted.
- Section 2. That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

Traffic Code

- 333.01 Driving Under the Influence. (Amended)  
337.28 Use of Sunscreening, Nontransparent and Reflectorized Materials.  
(Amended)

General Offenses Code

- 513.09 Controlled Substance or Prescription Labels. (Amended)  
529.07 Open Container Prohibited. (Amended)  
529.08 Hours of Sale or Consumption. (Amended)  
537.15 Temporary Protection Order. (Amended)

- Section 3. That the complete text of the sections of the Codified Ordinances listed above are set forth in full in the current replacement pages to the Codified Ordinances which are hereby attached to this ordinance as Exhibit A. Any summary publication of this ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

Section 4: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety for the reason that there exists an imperative necessity for the earliest publication and distribution of the current replacement pages to the Codified Ordinances to the officials and residents of the Municipality, so as to facilitate administration, daily operation and avoid legal entanglements including conflict with general State law; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

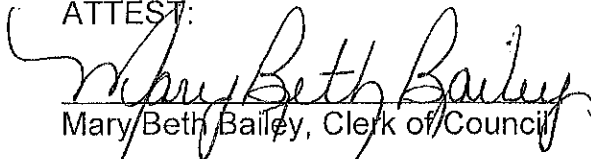
Passed in Council this 5<sup>th</sup> day of September 2018



David Held, Mayor

Signed: 9/10, 2018

ATTEST:



Mary Beth Bailey, Clerk of Council

INSTRUCTIONS FOR INSERTING  
2018 REPLACEMENT PAGES  
FOR THE  
CODIFIED ORDINANCES OF NORTH CANTON

All new replacement pages bear the footnote "2018 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

Discard Old Pages

Insert New Pages

PRELIMINARY UNIT

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7, 8

**CODIFIED  
ORDINANCES  
OF THE  
CITY OF  
NORTH CANTON  
OHIO**

Complete to July 12, 2018

**CERTIFICATION**

We, David J. Held, Mayor, and Mary Beth Bailey, Clerk of Council, of the City of North Canton, Ohio, pursuant to Ohio Revised Code 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of North Canton, as revised, rearranged, compiled, renumbered as to sections, recodified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of the City of North Canton, Ohio, 1993, as amended to July 12, 2018.

/s/ David J. Held  
Mayor

/s/ Mary Beth Bailey  
Clerk of Council

Codified, edited and prepared for  
publication by  
THE WALTER H. DRANE COMPANY  
Cleveland, Ohio

## CITY OF NORTH CANTON

## ROSTER OF OFFICIALS

(2018)

COUNCIL

Douglas V. Foltz	Ward One, Vice President
Daniel J. Peters	Ward Two, President
Stephanie Werren	Ward Three
Dominic Fonte	Ward Four
Mark R. Cerreta	At Large
Marcia Kiesling	At Large
Daryl Revoldt	At Large

ADMINISTRATION

David J. Heid	Mayor
Patrick DeOrio	Director of Administration
Laura Brown	Director of Finance
Timothy I. Fox	Director of Law
Mary Beth Bailey	Clerk of Council
Robert Graham	City Engineer
John Stigalt	Director of Permits and Inspections
John Minock	Chief of Police
John P. Bacon	Chief of Fire & EMS

The publisher  
expresses his appreciation  
to

MARY BETH BAILEY  
Clerk of Council

and to all other officers and employees  
who gave their time and counsel to  
this 1993 recodification of the  
North Canton City Ordinances  
and the preparation of  
current replacement pages



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## COMPARATIVE SECTION TABLE

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2-08	2-28-08	115.01(j)	15-11	3-14-11	907.02, 907.99
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## COMPARATIVE SECTION TABLE

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89-12	10-8-12	195.01			
90-12	9-10-12	191.22			
91-12	10-22-12	519.01 to 519.06			
19-13	3-25-13	937.01			
33-13	5-28-13	111.01 to 111.12; Repeals Ch. 115			
34-13	6-10-13	1177.01 to 1177.11			
38-13	6-24-13	937.05			
39-13	6-24-13	935.02, 935.07			
49-13	9-16-13	1138.04			
50-13	7-8-13	135.03			
54-13	7-8-13	1701.10			
62-13	10-14-13	191.13, 191.18, 191.19, 191.22			
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59-14	7-23-14	553.01			
92-14	12-1-14	171.01			
15-15	4-13-15	111.02			
16-15	4-13-15	1171.05			
17-15	4-27-15	Repeals 1177.11			
62-15	11-9-15	192.01 to 192.25, 192.99			
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31-16	3-14-16	351.03			
69-16	10-10-16	911.01			
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TABLE B - EASEMENTS (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
56-2016	9-12-16	Accepting a perpetual storm sewer and drainage easement known as Parcel No. 5609242, and being part of Open Space "C" by and between the City, Grantee, and The Sanctuary Owners Association, Inc., Grantor.
57-2016	9-12-16	Accepting a perpetual water main easement known as Parcel No. 10006042, and being part of a 9.40 acre tract of land, by and between the City, Grantee, and Villas at Kings Creek Condominium, Grantor.
58-2016	9-12-16	Accepting a perpetual water main easement known as Parcel No. 10006130, and being part of a 4.70 acre tract of land, by and between the City, Grantee, and Kings Creek Associates, L.P., Grantor.
67-2016	10-10-16	Accepting a perpetual culvert and drainage easement known as Parcel No. 5609242, and being part of Open Space "C", by and between the City, Grantee, and The Sanctuary Owners Association, Inc., Grantor.
68-2016	10-10-16	Accepting a perpetual culvert and drainage easement known as Parcel No. 10007844, and being part of Out Lot 401, by and between the City, Grantee, and McKinley-Applegrove LTD., Grantor.
10-2017	2-16-17	Accepting a perpetual water main and sidewalk easement known as Parcel No. 10008177, and being part of Lot No. 7122, by and between the City, Grantee, and Levani's Property, LLC., Grantor.
11-2017	2-16-17	Accepting a perpetual water main easement known as Parcel No. 1628429, and being part of the Southeast Quarter of Section 1, Township of Jackson, by and between the City, Grantee, and Mahnbok Realty Group, LLC.; 4101 Shuffel, Inc., Whitedonuts, LLC, Grantor.
12-2017	2-16-17	Accepting a perpetual water main easement known as Parcel No. 1628433 and being part of the Southeast Quarter of Section 1, Township of Jackson, by and between the City, Grantee, and Mahnbok Realty Group, LLC.; 4101 Shuffel, Inc., Whitedonuts, LLC, Grantor.
13-2017	2-16-17	Accepting a perpetual water main easement known as Parcel No. 10007975, and being part of the Southeast Quarter of Section 1, Township of Jackson, by and between the City, Grantee, and Mahnbok Realty Group, LLC.; 4101 Shuffel, Inc., Whitedonuts, LLC, Grantor.
15-2017	3-13-17	Authorizing the vacation of a public drainage and utility easement, and a 16' sanitary sewer easement located in the Irondale Circle NE area within the City.
23-2017	2-27-17	Accepting a perpetual water main easement known as Parcel No. 10008509 and being part of a 0.0309 acre tract of land, by and between the City, Grantee, and 3939 Everhard, LLC, Grantor.
47-2017	6-26-17	Accepting a nonexclusive easement known as Parcel Nos. 9208010 and 9208015, and being part of Outlot No. 408, Lot Nos. 7124 and 7123, by and between the City, Grantee, and The Most Reverend George V. Murry, S.J. Bishop of the Roman Catholic Diocese of Youngstown, Trustee, Grantor.

TABLE B - EASEMENTS (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
85-2017	10-23-17	Accepting a perpetual waterline utility easement known as Parcel No. 10007429, and being part of a 0.0402 acre tract of land, by and between the City (Grantee) and Maple Street Commerce, ("Grantor").
103-2017	1-22-17	Establishing a Trailway easement by and between the City, Grantor, and Stark County Park District ("Stark Parks"), Grantee, through the property known as Parcel No. 9480025, and being Out Lot 299.

TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
98-98	6-22-98	Directs appropriation of part of Out Lot 195 (Parcel 56-03307).
114-98	7-13-98	Authorizes contract for purchase of Permanent Parcel 56-02296 and Out Lot 179 (1280 S. Main St.).
123-98	8-31-98	Directs appropriation of part of Out Lot 199, Parcel 66WV (Auditor's parcel 56-08126).
134-98	10-26-98	Directs appropriation of part of Out Lot 196 (Parcel 56-07161).
135-98	10-26-98	Directs appropriation of part of Lot 4561 (Parcel 56-02268).
154-98	12-14-98	Authorizes sales agreement for property at 1280 S. Main St. between City (seller) and R.A. McNurlin (Buyer).
159-98	12-14-98	Directs appropriation of part of Out Lot 272 (Parcel 56-07950).
16-99	2-22-99	Authorizes acquisition of Baker's Dozen Mall from B.J.S. Realty.
17-99	2-22-99	Authorizes sales contract of land for private redevelopment with Viking Ltd. and Baker, Dublikar, Beck, Wiley & Mathews.
51-99	6-14-99	Authorizes amendment to Agreement of Sale for 1280 S. Main St. (12-16-98) (auth. by Ord. 154-98), between City and R.A. McNurlin.
65-99	6-14-99	Authorizes acceptance of 0.159 acres on S. Main St. from T. Kolp Rev. Trust.
70-02	8-26-02	Authorizes accepting a 10.100 acre tract of land on south side of Applegrove St. N.W. from North Canton Rotary.
80-02	7-8-02	Authorizes acquisition of Parcel No. 13-WD from Strouble's Lanes, Inc. for r-o-w; also a temporary r-o-w (Parcel No. 13-T) for Portage/Whipple intersection improvements.
96-02	9-9-02	Authorizes agreement between City and The 1625 Portage Street Limited Partnership (formerly The Pattakos Family Limited Partnership) to purchase r-o-w (Parcel 14WD and 14T) for Whipple/Portage intersection improvements.
99-02	10-14-02	Authorizes sale of property between 38th St. and Raymar Ave., N.W., Plain Twp., to Canton Christian Fellowship.
104-02	9-23-02	Authorizes purchase of premises at 225 Harmon St. S.W. (Permanent Parcel No. 56-02556).
123-02	1-13-03	Repeals Ord. 99-02.
1-03	2-10-03	Accepts City Out Lot 299 in Washington Square Allotment for public green space.
61-03	4-28-03	Authorizes purchase of Arrowhead Country Club, 1500 Rogwin Circle S.W. (Permanent Parcel 56-08084).
10-05	1-10-05	Directs appropriation of part of Lot 5677, Parcel 5-WD (Auditor's parcel 56-08893) for improvement of S. Main/Everhard Rd.
22-05	1-24-05	Authorizes agreement with A. Maragas for purchase of r-o-w (Parcel 1) for S. Main/Everhard Project.
23-05	1-24-05	Authorizes purchase agreement with Gentle Shepard Properties, Ltd. for r-o-w (Parcel 2) for S. Main/Everhard Project.
24-05	1-24-05	Authorizes purchase agreement with DJ Realty Limited Partnership for r-o-w (Parcel 3) for S. Main/Everhard Project.

TABLE E - ACQUISITION AND DISPOSAL OF REAL PROPERTY (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
25-05	1-24-05	Authorizes purchase agreement with R.L. Deville Enterprises, Ltd. for r-o-w (Parcel 4) for S. Main/Everhard Project.
26-05	1-24-05	Authorizes purchase agreement with Bentbrook Condominiums Homeowners Association, Inc. for r-o-w (Parcel 6) for S. Main/Everhard Project.
107-05	5-9-05	Authorizes purchase agreement between City and P.J. and I.M. Miller for land for proposed Water Tower #3.
156-05	7-11-05	Authorizes purchase agreement for part of Out Lot 247 (P.P.N. 5800136) for proposed Marquardt Sanitary Sewer and future park purposes.
189-05	10-10-05	Authorizes transfer of ownership of vacated property on Briar Ave. NE and Weber Ave. NE to adjacent property owners.
215-05	12-12-05	Authorizes contract for purchase of Lot No. 4236.
66-06	4-24-06	Authorizes contract for sale and purchase with W.H. Leed II and P.L. Leed to acquire r-o-w (Parcel 1 WD) for South Main Streetscape Project.
67-06	4-24-06	Authorizes contract for sale and purchase with J.P. and I.M. Connor to acquire r-o-w (Parcel 2 WD) for South Main Streetscape Road Project.
68-06	4-24-06	Authorizes contract for sale and purchase with J.N. Russell to acquire r-o-w (Parcel 3 WD) for South Main Streetscape Project.
24-08	3-10-08	Directing the appropriation of part of Lot 5974 (Auditor's parcel number 92-08075).
36-08	4-28-08	Authorizing exchange of certain parcels of real estate with the North Canton YMCA.
7-09	1-12-09	Authorizing the purchase of 1525 East Maple Street at a cost not to exceed \$127,000.
19-14	3-10-14	Accepts the donation of real property, from Sandra K. Kean, and known as Parcel No. 9200116, City Lot 2781, located in the City and adjacent to Price Park.
25-2018	5-14-18	Authorizing the Mayor to enter into a lease agreement between the City and North Canton Little League.

**CHAPTER 135**  
**Department of Fire and Emergency Medical Service**

- |   |  |
|---|--|
| <b>135.01</b> Department established.<br><b>135.02</b> Chief of Department.<br><b>135.03</b> Personnel. | <b>135.04</b> Fire inspectors to issue citations.<br><b>135.05</b> Compensable and volunteer duties. |
|---|--|

**CROSS REFERENCES**

Under jurisdiction of Department of Safety - see CHTR. 3.06(2)  
 State law provisions - see Ohio R.C. Ch. 737

**135.01 DEPARTMENT ESTABLISHED.**

A Fire and Emergency Medical Service Department is hereby established for the City. It shall consist of personnel, fire apparatus, ambulances, and other property and equipment now in use or which may hereafter be purchased by the City. The Fire and Emergency Medical Service Department is hereby established for the purpose of providing fire protection, fire prevention, emergency medical care to accident and trauma victims, and other fire and emergency medical services in the City in a safe and efficient manner according to generally recognized standards. (Ord. 148-04. Passed 12-13-04.)

**135.02 CHIEF OF DEPARTMENT.**

The Chief shall be classified as a civil servant covered by the civil service provisions of the City, pursuant to Section 3.07(1) of the Charter. The Chief of the Fire and Emergency Medical Service Department shall be an elector of the City and shall be appointed by the Mayor. (Ord. 148-04. Passed 12-13-04.)

**135.03 PERSONNEL.**

(a) The Fire and Emergency Medical Service Department shall be comprised of the following ranks and positions: One full-time Chief of Fire and Emergency Medical Service Department; no more than three full-time Firefighter/EMT/Fire Inspectors; no more than three full-time Captains-Emergency Medical Technician-Paramedics; no more than eight full-time Emergency Medical Technician Paramedics; together with those part-time volunteer personnel, as required, and that shall be designated by the Director of Administration.

(b) Effective January 1, 2005, if a full-time Emergency Medical Technician-Paramedic position becomes vacant, it shall be replaced with a full-time Emergency Medical Technician-Paramedic/Firefighter. At no time will there be more than eight full-time Emergency Medical Technician Paramedic/Firefighters. (Ord. 83-2017. Passed 9-25-17.)

(c) Pursuant to Section 3.07(1) of the North Canton City Charter, full-time positions of the Fire and Emergency Medical Service Department are classified civil servants and covered by the City's civil service provisions.  
(Ord. 50-13. Passed 7-8-13.)

#### **135.04 FIRE INSPECTORS TO ISSUE CITATIONS.**

Full-time fire inspectors shall be authorized to issue tickets or citations for violations of the following subsection of Section 351.03 of the Traffic Code:

- (a) Within ten feet of a fire hydrant;
  - (b) Within twenty feet of a driveway entrance to any Fire or EMS Station or designated emergency facility, and on the side of the street opposite the entrance to any Fire and EMS Station or designated emergency facility or within seventy-five feet of such entrance when it is properly posted with signs; and
  - (c) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs (provided that said place is a fire lane).
- (Ord. 148-04. Passed 12-13-04.)

#### **135.05 COMPENSABLE AND VOLUNTEER DUTIES.**

(a) The following services performed by members of the Fire and Emergency Medical Service Department shall be considered compensable:

- (1) Assigned personnel responding to alarms.
- (2) Other special duties approved by the Director of Administration and the Department Chief.

(b) The following services performed by the Fire and Emergency Medical Service Department shall be considered volunteer activities:

- (1) Standby duty time.
  - (2) Observation of vital signs training.
  - (3) In-hospital training.
  - (4) Cardiovascular emergency medical technician.
  - (5) Paramedic training.
  - (6) Activities of the North Canton Squadman's Association.
- (Ord. 148-04. Passed 12-13-04.)



**CHAPTER 145  
Planning Commission**

**145.01 Recording meetings and content  
of minutes.**

**CROSS REFERENCES**

Commission created - see CHTR. 3.03

General powers and appointment - see CHTR. 3.07(2)

Statutory powers and duties - see Ohio R.C. Ch. 711, 713

**145.01 RECORDING MEETINGS AND CONTENT OF MINUTES.**

(a) Planning Commission meetings, with the exception of executive sessions, shall be audio and video recorded.

(b) Administration shall promptly prepare, file, and make available for public inspection, a verbatim transcript of Planning Commission meetings.

(c) Recorded audio of Planning Commission meetings shall be retained until a verbatim transcript has been prepared and approved.  
(Ord. 11-2018. Passed 4-9-18.)



**CHAPTER 147**  
**Zoning and Building Standards Board of Appeals**

**147.01 Recording meetings and  
content of minutes.**

**CROSS REFERENCES**

Board created - see CHTR. 3.03  
Appointment and general powers - see CHTR. 3.07(3)  
Appeals from zoning decisions - see Ohio R.C.  
713.11, Ch. 2506

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**147.01 RECORDING MEETINGS AND CONTENT OF MINUTES.**

(a) Zoning and Building Standards Board of Appeals meetings, with the exception of executive sessions, shall be audio and video recorded.

(b) Administration shall promptly prepare, file, and make available for public inspection, a verbatim transcript of Zoning and Building Standard Board of Appeals meetings.  
(Ord. 12-2018. Passed 4-9-18.)



**CHAPTER 192**  
**Income Tax Effective January 1, 2016**

192.01	Authority to levy tax; purpose of tax.	192.15	Administration of claims.
192.02	Definitions.	192.16	Tax information confidential.
192.03	Imposition of tax.	192.17	Fraud.
192.04	Collection at source.	192.18	Interest and penalties.
192.05	Annual return; filing.	192.19	Authority of Tax Administrator; verification of information.
192.06	Credit for tax paid to other municipalities.	192.20	Request for opinion of the Tax Administrator.
192.07	Estimated taxes.	192.21	Board of Tax Review.
192.08	Rounding of amounts.	192.22	Authority to create rules and regulations.
192.09	Requests for refunds.	192.23	Rental and leased property.
192.10	Second municipality imposing tax after time period allowed for refund.	192.24	Savings clause.
192.11	Amended returns.	192.25	Collection of tax after termination of chapter.
192.12	Limitations.	192.26	Election to be subject to R.C. 718.80 to 718.95.
192.13	Audits.	192.99	Violations; penalties.
192.14	Service of assessment.		

**CROSS REFERENCES**

Power to levy - see Ohio Const. Art. XVIII, Sec. 3  
Taxation limitations - see CHTR. 4.02  
Municipal income taxes - see Ohio R.C. Ch. 718

**192.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.**

(A) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, North Canton hereby levies an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

(B) The annual tax is levied at a rate of 1.5%. The tax is levied at a uniform rate on all persons residing in or earning or receiving income in North Canton. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 192.03 of this Ordinance and other sections as they may apply.

(C) The first one percent so imposed shall be disbursed in the following order, to wit:  
(1) Such part thereof as shall be necessary to defray all costs of collection, administration and enforcement of the entire tax imposed by this Ordinance.

- (2) The balance of the one percent shall be allocated as follows: three-tenths to the Capital Improvement Fund and seven-tenths for general operating purposes, for uses, in each case, as determined by Council.
- (3) The remaining one-half percent so imposed shall be allocated for general municipal operations and capital improvements in amounts and for uses, in each case, as determined by Council.

(D) The tax on income and the withholding tax established by this Chapter 192 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is effective for tax years beginning on and after January 1, 2016. Municipal taxable years beginning on or before December 31, 2015, are subject to the income tax ordinance and amendments thereto, and rules and regulations and amendments thereto, as they existed before January 1, 2016. (Ord. 81-2016. Passed 12-12-16.)

#### 192.02 DEFINITIONS.

(A) Any term used in this ordinance that is not otherwise defined in this ordinance has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the ORC, unless a different meaning is clearly required. If a term used in this ordinance that is not otherwise defined in this ordinance is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the ORC and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the ORC.

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) As used in this ordinance:

- (1) **"Adjusted federal taxable income,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under (C)(24)(e) of this division, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
  - (a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
  - (b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;
  - (c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
  - (d) (i) Except as provided in (C)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

- (ii) Division (C)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.
- (e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (f) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (g) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Section 4313.02 of the ORC;
- (h) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal income in accordance with division (V)(3)(b) of Section 192.05.
- (i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 192.05.
- (j) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (V)(3)(b) of Section 192.05.

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (C)(48)(b) of this section, is not a publicly traded partnership that has made the election described in division (C)(24)(e) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under Section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction. Nothing in division (C)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

- (2) (a) **"Assessment"** means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 192.21, and has **"ASSESSMENT"** written in all capital letters at the top of such finding.
- (b) **"Assessment"** does not include a notice denying a request for refund issued under division (C)(3) of Section 192.09, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, the Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or the Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (C)(2)(a) of this section.
- (3) **"Audit"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.
- (4) **"Board of Tax Review"** or **"Board of Review"** or **"Board of Tax Appeals"**, or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 192.21.
- (5) **"Calendar quarter"** means the three-month period ending on the last day of March, June, September, or December.
- (6) **"Casino operator"** and **"casino facility"** have the same meanings as in Section 3772.01 of the ORC.
- (7) **"Certified mail," "express mail," "United States mail," "postal service,"** and similar terms include any delivery service authorized pursuant to Section 5703.056 of the ORC.
- (8) **"Disregarded entity"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (9) **"Domicile"** means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.
- (10) **"Employee"** means an individual who is an employee for federal income tax purposes.
- (11) **"Employer"** means a person that is an employer for federal income tax purposes.
- (12) **"Exempt income"** means all of the following:
  - (a) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.
  - (b) Intangible income.



- (c) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C)(12)(c) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.
- (d) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (e) Compensation paid under Section 3501.28 or 3501.36 of the ORC to a person serving as a precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
- (f) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
- (g) Alimony and child support received.
- (h) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.
- (i) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the ORC. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745. of the ORC.
- (j) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business.
- (k) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code.
- (l) Employee compensation that is not qualifying wages as defined in division (C)(35) of this section.
- (m) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

- (n) Intentionally left blank.
- (o) Intentionally left blank.
- (p)
  - (i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 192.04 to the extent the qualifying wages are not subject to withholding for North Canton under either of those divisions.
  - (ii) The exemption provided in division (C)(12)(p)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
  - (iii) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 192.04.
  - (iv) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
    - (a) For qualifying wages described in division (C)(2) of Section 192.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (C)(5) of Section 192.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
    - (b) The employee receives a refund of the tax described in division (C)(12)(p)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (q)
  - (i) Except as provided in division (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in North Canton on not more than 20 days in a taxable year.
  - (ii) The exemption provided in division (C)(12)(q)(i) of this section does not apply under either of the following circumstances:
    - (a) The individual's base of operation is located in the municipal corporation.
    - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 192.04 (C).

- (iii) Compensation to which division (C)(12)(q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
  - (iv) For purposes of division (C)(12)(q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
  - (r) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to Section 709.023 of the ORC on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
  - (s) Income the taxation of which is prohibited by the constitution or laws of the United States.
- Any item of income that is exempt income of a pass-through entity under division (C) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.
- (13) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
  - (14) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.
  - (15) "Gross receipts" means the total revenue derived from sales, work done, or service rendered.
  - (16) "Income" means the following:
    - (a) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in (C)(24)(e) of this section.

- (ii) For the purposes of division (C)(16)(a)(i) of this section:
  - (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (C)(16)(a)(iv) of this section;
  - (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
- (iii) Division (C)(16)(a)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (C)(12)(n) or (C)(16)(e) of this section.
- (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
- (b) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (c) For taxpayers that are not individuals, net profit of the taxpayer;
- (d) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.
- (e) In accordance with a ballot issue, regarding S corporation language, approved by the voters in the election on November 2, 2004, a shareholder's share of net profits of an S corporation are taxable to North Canton to the extent such shares would be so allocated or apportioned to this state.

- (17) **"Intangible income"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Ordinance 5701. of the ORC, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (18) **"Internal Revenue Code"** has the same meaning as in Section 5747.01 of the ORC.
- (19) **"Limited liability company"** means a limited liability company formed under ordinance 1705. of the ORC or under the laws of another state.
- (20) **"Municipal corporation"** includes a joint economic development district or joint economic development zone that levies an income tax under Section 715.691 , 715.70 , 715.71 , or 715.74 of the ORC.
- (21) (a) **"Municipal taxable income"** means the following:
- (i) For a person other than an individual, income apportioned or sitused to North Canton under Section 192.03, and as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for North Canton.
  - (ii) (a) For an individual who is a resident of North Canton, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.
  - (b) For an individual who is a nonresident of North Canton, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the municipal corporation under Section 192.03, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for North Canton.
- (b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes, but only to the extent the expenses do not relate to exempt income. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation and are not related to exempt income.

- (22) **"Municipality"** means the same as the City of North Canton, herein referred to as "North Canton".
- (23) **"Net operating loss"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
- (24)
  - (a) **"Net profit"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(a) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(24)(c) of this section.
  - (b) **"Net profit"** for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (C)(24)(c) of this section.
  - (c)
    - (i) The amount of such operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five (5) consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
    - (ii) No person shall use the deduction allowed by division (C)(24)(c) of this section to offset qualifying wages.
    - (iii)
      - (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(24)(c) of this section.
      - (b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (C)(24)(c) of this section without regard to the limitation of division (C)(24)(c)(iii)(a) of this section.
  - (iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to (C)(24)(c) of this section.
  - (v) Nothing in division (C)(24)(c)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(24)(c)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(1)(h)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (C)(24)(c)(iii)(a) of this section shall apply to the amount carried forward.

- (d) For the purposes of this ordinance, and notwithstanding division (C)(24)(b) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- (e) A publicly traded partnership that is treated as a partnership for federal income tax purposes, and that is subject to tax on its net profits by North Canton, may elect to be treated as a C corporation for North Canton, and shall not be treated as the net profit or income of any owner of the partnership. The election shall be made on the annual return for North Canton. North Canton will treat the publicly traded partnership as a C corporation if the election is so made.
- (25) **"Nonresident"** means an individual that is not a resident.
- (26) **"Ohio Business Gateway"** means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (27) **"Other payer"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (28) **"Pass-through entity"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (29) **"Pension"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (30) **"Person"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (31) **"Postal service"** means the United States postal service.
- (32) **"Postmark date," "date of postmark,"** and similar terms include the date recorded and marked in the manner described in division (B)(3) of Section 5703.056 of the ORC.
- (33) (a) **"Pre-2017 net operating loss carryforward"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of North Canton that was adopted by North Canton before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in North Canton in future taxable years.

- (b) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (34) **"Publicly traded partnership"** means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
- (35) **"Qualifying wages"** means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
  - (a) Deduct the following amounts:
    - (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
    - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
    - (iii) Intentionally left blank.
    - (iv) Intentionally left blank.
    - (v) Any amount included in wages that is exempt income.
  - (b) Add the following amounts:
    - (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
    - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (C)(35)(b)(ii) of this section applies only to those amounts constituting ordinary income.
    - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (C)(35)(b)(iii) of this section applies only to employee contributions and employee deferrals.
    - (iv) Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.
    - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with Section 1402(a)(8) of the Internal Revenue Code.
    - (vi) Any amount not included in wages if all of the following apply:
      - (a) For the taxable year the amount is employee compensation that is earned outside the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code;



- (b) For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code;
  - (c) For no succeeding taxable year will the amount constitute wages; and
  - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or Section 192.04, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.
- (36) **"Related entity"** means any of the following:
- (a) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
  - (b) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
  - (c) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;
  - (d) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) to (c) of this section have been met.
- (37) **"Related member"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.
- (38) **"Resident"** means an individual who is domiciled in the municipal corporation as determined under Section 192.03(E).
- (39) **"S corporation"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (40) **"Schedule C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) **"Schedule E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

- (42) **"Schedule F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (43) **"Single member limited liability company"** means a limited liability company that has one direct member.
- (44) **"Small employer"** means any employer that had total revenue of less than \$500,000 during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.
- (45) (a) **"Tax Administrator"** means the individual charged with direct responsibility for administration of an income tax levied by North Canton in accordance with this ordinance. Tax Administrator does not include the state tax commissioner.
- (45) (b) **"Tax commissioner"** means the tax commissioner appointed under section 121.03 of the Revised Code.
- (46) **"Tax return preparer"** means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.
- (47) **"Taxable year"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (48) (a) **"Taxpayer"** means a person subject to a tax levied on income by a municipal corporation in accordance with this ordinance. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(b)(i) of this section, a disregarded entity.
- (b) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
  - (a) The limited liability company's single member is also a limited liability company.
  - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
  - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of ORC 718.01 as that section existed on December 31, 2004.

- (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
    - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
  - (ii) For purposes of division (C)(48)(b)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least \$400,000.
- (49) **"Taxpayers' rights and responsibilities"** means the rights provided to taxpayers in Sections 192.09, 192.12, 192.13, 192.19(B), 192.20, 192.21, and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Ordinance 718. of the ORC and resolutions, ordinances, and rules and regulations adopted by North Canton for the imposition and administration of a municipal income tax.
- (50) **"Video lottery terminal"** has the same meaning as in Section 3770.21 of the ORC.
- (51) **"Video lottery terminal sales agent"** means a lottery sales agent licensed under Chapter 3770. of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC.  
(Ord. 101-2017. Passed 12-4-17.)

### **192.03 IMPOSITION OF TAX.**

The income tax levied by North Canton at a rate of one and one-half percent (1.5%) is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in North Canton.

#### **Individuals.**

- (A) For residents of North Canton, the income tax levied herein shall be on all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident. This is further detailed in the definition of income (Section 192.02 (C)(16)).
- (B) For nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

- (C) For residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 192.02 (C)(21). Exemptions which may apply are specified in Section 192.02 (C)(12).

**Refundable credit for Nonqualified Deferred Compensation Plan.**

- (D) (1) As used in this division:
- (a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
  - (b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
  - (c) (i) "Qualifying tax rate" means the applicable tax rate for the taxable year for which the taxpayer paid income tax to North Canton with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
  - (ii) If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to North Canton each year with respect to the nonqualified deferred compensation plan.
  - (d) "Refundable credit" means the amount of North Canton income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.
- (2) If, in addition to North Canton, a taxpayer has paid tax to other municipal corporations with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
- (3) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to North Canton for all taxable years with respect to the nonqualified deferred compensation plan.
- (4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
  - (b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

**Domicile.**

- (E) (1) (a) An individual is presumed to be domiciled in North Canton for all or part of a taxable year if the individual was domiciled in North Canton on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in North Canton for all or part of the taxable year.
- (b) An individual may rebut the presumption of domicile described in division (E)(1)(a) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in North Canton for all or part of the taxable year.
- (2) For the purpose of determining whether an individual is domiciled in North Canton for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
- (a) The individual's domicile in other taxable years;
- (b) The location at which the individual is registered to vote;
- (c) The address on the individual's driver's license;
- (d) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
- (e) The location and value of abodes owned or leased by the individual;
- (f) Declarations, written or oral, made by the individual regarding the individual's residency;
- (g) The primary location at which the individual is employed.
- (h) The location of educational institutions attended by the individual's dependents as defined in Section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located;
- (i) The number of contact periods the individual has with North Canton. For the purposes of this division, an individual has one "contact period" with North Canton if the individual is away overnight from the individual's abode located outside of North Canton and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in North Canton.
- (3) All additional applicable factors are provided in the Rules and Regulations.

**Businesses.**

- (F) This division applies to any taxpayer engaged in a business or profession in North Canton, unless the taxpayer is an individual who resides in North Canton or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745. of the ORC.
- (1) Except as otherwise provided in division (F)(2) of this section, net profit from a business or profession conducted both within and without the boundaries of North Canton shall be considered as having a taxable situs in North Canton for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in North Canton during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.  
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
  - (b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in North Canton to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 192.04 (C);
  - (c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in North Canton to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (2) (a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in North Canton, the taxpayer may request, or the Tax Administrator of North Canton may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
- (i) Separate accounting;
  - (ii) The exclusion of one or more of the factors;
  - (iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
  - (iv) A modification of one or more of the factors.
- (b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 192.12 (A).
- (c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 192.12 (A).
- (d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

- (3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
- (a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
    - (i) The employer;
    - (ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
    - (iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.
  - (b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
  - (c) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (4) For the purposes of division (F)(1)(c) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- (a) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets any either of the following criteria:
    - (i) The property is shipped to or delivered within North Canton from a stock of goods located within North Canton.
    - (ii) The property is delivered within North Canton from a location outside North Canton, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within North Canton and the sales result from such solicitation or promotion.
  - (b) Gross receipts from the sale of services shall be situated to North Canton to the extent that such services are performed in North Canton.
  - (c) To the extent included in income, gross receipts from the sale of real property located in North Canton shall be situated to North Canton.
  - (d) To the extent included in income, gross receipts from rents and royalties from real property located in North Canton shall be situated to North Canton.

- (e) Gross receipts from rents and royalties from tangible personal property shall be situated to North Canton based upon the extent to which the tangible personal property is used in North Canton.
  - (5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to North Canton's tax only if the property generating the net profit is located in North Canton or if the individual taxpayer that receives the net profit is a resident of North Canton. North Canton shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.
  - (6)
    - (a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to North Canton, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in North Canton to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
    - (b) An individual who is a resident of North Canton shall report the individual's net profit from all real estate activity on the individual's annual tax return for North Canton. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under North Canton's income tax ordinance.
  - (7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.
  - (8) Left intentionally blank.
  - (9) Intentionally left blank.
- (Ord. 31-2018, Passed 5-14-18.)

#### 192.04 COLLECTION AT SOURCE.

##### Withholding provisions.

(A) Each employer, agent of an employer, or other payer located or doing business in North Canton shall withhold an income tax from the qualifying wages earned and/or received by each employee in North Canton. Except for qualifying wages for which withholding is not required under Section 192.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 1 (B)(1) of this ordinance, of 1.5%. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.



- (B) (1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of North Canton the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer according to the following schedule:
- (a) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of North Canton in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of North Canton in any month of the preceding calendar quarter exceeded \$200.  
Payment under division (B)(1)(a) of this section shall be made to the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.
  - (b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.
  - (c) Intentionally left blank.
- (2) If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of North Canton. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.
- (3) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by Tax Administrator and North Canton as the return required of a non-resident employee whose sole income subject to the tax under this ordinance is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.
- (4) An employer, agent of an employer, or other payer is not required to withhold North Canton income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.
- (5) (a) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this ordinance or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

- (b) The failure of an employer, agent of an employer, or other payer to remit to North Canton the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
- (6) Compensation deferred before June 26, 2003, is not subject to North Canton income tax or income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.
- (7) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for North Canton until such time as the withheld amount is remitted to the Tax Administrator.
- (8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:
  - (a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for North Canton during the preceding calendar year;
  - (b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year;
  - (c) The name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year;
  - (d) Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee;
  - (e) Other information as may be required by the Tax Administrator.
- (9) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (10) An employer is required to deduct and withhold North Canton income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.
- (11) The Tax Administrator shall consider any tax withheld by an employer at the request of an employee, when such tax is not otherwise required to be withheld by this ordinance, to be tax required to be withheld and remitted for the purposes of this section

**Occasional Entrant - Withholding.**

(C) (1) As used in this division:

- (a) "Employer" includes a person that is a related member to or of an employer.
- (b) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (c) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer. If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (C)(2)(a)(i) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.  
For the purposes of this division, the location at which an employee spends a particular day shall be determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.
- (d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

- (f) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
  - (g) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.
- (2) (a) Subject to divisions (C)(3), (5), (6), and (7) of this section, an employer is not required to withhold North Canton income tax on qualifying wages paid to an employee for the performance of personal services in North Canton if the employee performed such services in North Canton on 20 or fewer days in a calendar year, unless one of the following conditions applies:
- (i) The employee's principal place of work is located in North Canton.
  - (ii) The employee performed services at one or more presumed worksite locations in North Canton. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in North Canton at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20 days" if either of the following applies at the time the services commence:
    - (a) The nature of the services are such that it will require more than 20 days of the services to complete the services;
    - (b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than 20 days.
  - (iii) The employee is a resident of North Canton and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 192.04.
  - (iv) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure.
- (b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to have spent a day performing services in North Canton only if the employee spent more time performing services for or on behalf of the employer in North Canton than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

- (i) Traveling to the location at which the employee will first perform services for the employer for the day;
  - (ii) Traveling from a location at which the employee was performing services for the employer to any other location;
  - (iii) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
  - (iv) Transporting or delivering property described in division (C)(2)(b)(iii) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
  - (v) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.
- (3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to that municipal corporation.
- (4)
  - (a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in North Canton exceeds the 20-day threshold, the employer shall withhold and remit tax to North Canton for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in North Canton.
  - (b) An employer required to begin withholding tax for North Canton under division (C)(4)(a) of this section may elect to withhold tax for North Canton for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in North Canton.
- (5) If an employer's fixed location is North Canton and the employer qualifies as a small employer as defined in Section 192.02, the employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to North Canton, regardless of the number of days which the employee worked outside the corporate boundaries of North Canton.  
To determine whether an employer qualifies as a small employer for a taxable year, a the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (6) Divisions (C)(2)(a) and (4) of this section shall not apply to the extent that the Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 192.04. (Ord. 101-2017. Passed 12-4-17.)

**192.05 ANNUAL RETURN; FILING.**

(A) An annual North Canton income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which

- (1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 192.04 of this Ordinance when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due North Canton.
- (2) Individual taxpayers having no Municipal Taxable Income for North Canton income tax purposes may file with the Tax Administrator an exemption from these filing requirements by a method prescribed by the Tax Administrator. The exemption shall indicate the reason the income should be considered exempt, and the date by which the exemption should be effective. The exemption shall be in effect until such time as the individual taxpayer receives Municipal Taxable Income taxable to the North Canton, at which time the individual taxpayer shall be required to comply with all applicable provisions of this ordinance.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by North Canton, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) North Canton shall permit spouses to file a joint return.

- (F)
- (1) Each return required to be filed under this division shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer. The return shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.
  - (2) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return, and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return, any other documentation necessary to support the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

- (3) The Tax Administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.
- A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway.
- (4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by North Canton to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
- (G) (1) (a) Except as otherwise provided in this ordinance, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to North Canton. No remittance is required if the net amount due is ten dollars or less.
- (b) Except as otherwise provided in this chapter, each annual net profit return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day (15th) of the fourth month following the end of the taxpayer's taxable year. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to North Canton. No remittance is required if the net amount due is ten dollars or less.
- (2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of North Canton's income tax return. The extended due date of North Canton's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
- (a) A copy of the federal extension request shall be included with the filing of North Canton's income tax return.

- (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's North Canton income tax return. If the request is received by the Tax Administrator on or before the date the North Canton income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.
- (3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of a North Canton's income tax return. The extended due date of North Canton's income tax return shall be the same as the extended due date of the state income tax return.
- (4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by North Canton, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.
- (5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.
- (H) (1) For taxable years beginning after 2015, North Canton shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars or less.
- (2) Any taxpayer not required to remit tax to North Canton for a taxable year pursuant to division (H)(1) of this section shall file with North Canton an annual net profit return under division (F)(3) of this section.
- (I) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. This division shall not apply to payments required to be made under division (B)(1)(a) of Section 192.04 or provisions for semi-monthly withholding.
- (J) Taxes withheld for the North Canton by an employer, the agent of an employer, or other payer as described in Section 192.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by North Canton, unless the amounts withheld were not remitted to North Canton and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.
- (K) Each return required by North Canton to be filed in accordance with this division shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return.



(L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by North Canton, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by North Canton or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this ordinance and of North Canton's ordinance, resolution, or rules and regulations governing the filing of returns, reports, or documents.

**Filing via Ohio Business Gateway.**

- (M) (1) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file North Canton's income tax return, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.
- (2) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.
- (3) Nothing in this section affects the due dates for filing employer withholding tax returns.

**Extension for service in or for the armed forces.**

(N) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the president of the United States or an act of the congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of North Canton for both an extension of time for filing of the return and an extension of time for payment of taxes required by North Canton during the period of the member's or civilian's duty service, and for 180 days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

- (O) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the 181st day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (2) If the Tax Administrator determines that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the North Canton before the 181st day after the applicant's active duty or service terminates.
- (3) Taxes paid pursuant to a contract entered into under (O)(1) of this division are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

- (P) (1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) of this section.
- (2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by North Canton in accordance with this ordinance. The length of any extension granted under division (P)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this division, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the president of the United States or an act of the congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.
- (b) Taxes whose payment is extended in accordance with division (P)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(Q) For each taxable year to which division (N), (O), or (P) of this section applies to a taxpayer, the provisions of divisions (O)(2) and (3) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

**Consolidated municipal income tax return.**

- (R) As used in this section:
- (1) "Affiliated group of corporations" means an affiliated group as defined in Section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (R)(1) of this section.

- (4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.
  - (5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.
- (S) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to North Canton's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (S)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
- (3) An election made under division (S)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.
- (4) When a taxpayer makes the election allowed under section 718.80 of the Revised Code, a valid election made by a taxpayer under division (S)(1) or (2) of this section is binding upon the tax commissioner for the remainder of the five-year period.
- (5) When an election is made under section 718.80 of the Revised Code is terminated, a valid election made under section 718.86 of the Revised Code is binding upon the tax administrator for the remainder of the five-year period.

(T) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated North Canton income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to North Canton. A taxpayer that is required to file a consolidated North Canton income tax return for a taxable year shall file a consolidated North Canton income tax return for all subsequent taxable years, unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(U) A taxpayer shall prepare a consolidated North Canton income tax return in the same manner as is required under the United States department of treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

- (V) (1) Except as otherwise provided in divisions (V)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 192.02, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
- (2) No corporation filing a consolidated North Canton income tax return shall make any adjustment otherwise required under Section 192.02 (C)(1) to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
- (3) If the net profit or loss of a pass-through entity having at least eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated North Canton income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
- (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 192.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to North Canton. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
  - (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 192.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to North Canton. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
- (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in divisions (R) through (Y) of Section 192.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to North Canton;

- (b) The pass-through entity shall be subject to North Canton income taxation as a separate taxpayer in accordance with this ordinance on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(W) Corporations filing a consolidated North Canton income tax return shall make the computations required under divisions (R) through (Y) of Section 192.05 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(X) Each corporation filing a consolidated North Canton income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by North Canton in accordance with this ordinance on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(Y) Corporations and their affiliates that made an election or entered into an agreement with North Canton before January 1, 2016, to file a consolidated or combined tax return with North Canton may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.  
(Ord. 31-2018. Passed 5-14-18.)

#### **192.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.**

(A) Every individual taxpayer domiciled in North Canton who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this ordinance may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality. Subject to division (C) of this section, the credit shall not exceed the tax due North Canton under this ordinance.

(B) North Canton shall grant a credit against its tax on income to a resident of North Canton who works in a joint economic development zone created under Section 715.691 or a joint economic development district created under Section 715.70, 715.71, or 715.72 of the ORC to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation.

(C) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (A) of this section, "the income, qualifying wages, commissions, net profits or other compensation" subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.

(D) Intentionally left blank.  
(Ord. 62-2015. Passed 11-9-15.)

#### **192.07 ESTIMATED TAXES.**

(A) As used in this section:

- (1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for North Canton's income tax for the current taxable year.

- (2) "Tax liability" means the total taxes due to North Canton for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.
- (B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least \$200. For the purposes of this section:
  - (a) Taxes withheld for North Canton from qualifying wages shall be considered as paid to the North Canton in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they shall be considered as paid on the dates on which the amounts were actually withheld.
  - (b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
- (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 192.05 or on or before the fifteenth (15th) day of the fourth month after the taxpayer becomes subject to tax for the first time.
- (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth month after the beginning of each fiscal year or period.
- (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.
- (C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to North Canton, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
  - (a) On or before the fifteenth (15th) day of the fourth month after the beginning of the taxable year, twenty-two and one-half (22.5) percent of the tax liability for the taxable year;
  - (b) On or before the fifteenth (15th) day of the sixth month after the beginning of the taxable year, forty-five (45) percent of the tax liability for the taxable year;
  - (c) On or before the fifteenth (15th) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half (67.5) percent of the tax liability for the taxable year;

- (d) For an individual, on or before the fifteenth (15th) day of the first month of the following taxable year, ninety percent (90%) of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.
  - (2) When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates.
  - (3) On or before the fifteenth (15th) day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 5.
- (D)
  - (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 192.18 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
    - (a) For the first payment of estimated taxes each year, twenty-two and one-half percent (22.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
    - (b) For the second payment of estimated taxes each year, forty-five percent (45%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
    - (c) For the third payment of estimated taxes each year, sixty-seven and one-half percent (67.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
    - (d) For the fourth payment of estimated taxes each year, ninety percent (90%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
  - (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.
- (E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
  - (1) The amount of estimated taxes that were paid equals at least ninety percent (90%) of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
  - (2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with North Canton under Section 192.05 for that year.
  - (3) The taxpayer is an individual who resides in North Canton but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.  
(Ord. 101-2017. Passed 12-4-17.)

**192.08 ROUNDING OF AMOUNTS.**

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this ordinance. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document. (Ord. 62-2015. Passed 11-9-15.)

**192.09 REQUESTS FOR REFUNDS.**

(A) As used in this section, "withholding tax" has the same meaning as in Section 192.18.

(B) Upon receipt of a request for a refund, the Tax Administrator, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by North Canton:

- (1) Overpayments of ten dollars or more;
- (2) Amounts paid erroneously if the refund requested is ten dollars or more.

- (C)
- (1) Except as otherwise provided in this ordinance, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.
  - (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount for payment. Except as provided in division (C)(3) of this section, the Tax Administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
  - (3) If the Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 192.21.

(D) A request for a refund that is received after the last day for filing specified in division (C) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

- (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
- (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
- (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.



(B) This section does not prohibit North Canton from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.  
(Ord. 62-2015. Passed 11-9-15.)

#### **192.17 FRAUD.**

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by North Canton ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud North Canton or the Tax Administrator.  
(Ord. 62-2015. Passed 11-9-15.)

#### **192.18 INTEREST AND PENALTIES.**

(A) As used in this section:

- (1) "Applicable law" means this ordinance, the resolutions, ordinances, codes, directives, instructions, and rules adopted by North Canton provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of North Canton.
- (2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.
- (3) "Income tax," "estimated income tax," and "withholding tax" means any income tax, estimated income tax, and withholding tax imposed by North Canton pursuant to applicable law, including at any time before January 1, 2016.
- (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
- (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with the Tax Administrator or North Canton by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
- (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
- (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
- (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
- (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

- (B) (1) This section applies to the following:
- (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
  - (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to North Canton on or after January 1, 2016.
- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules and regulations, as adopted before January 1, 2016, of North Canton to which the return is to be filed or the payment is to be made.

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fail, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with North Canton any return required to be filed, the following penalties and interest shall apply:

- (1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.
- (2)
  - (a) With respect to unpaid income tax and unpaid estimated income tax, North Canton may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.
  - (b) With respect to any unpaid withholding tax, North Canton may impose a penalty not exceeding fifty percent (50%) of the amount not timely paid.
- (3) With respect to returns other than estimated income tax returns, North Canton may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.

(D) Nothing in this section requires North Canton to refund or credit any penalty, amount of interest, charges, or additional fees that North Canton has properly imposed or collected before January 1, 2016.

(E) Nothing in this section limits the authority of North Canton to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31st day of October of each year North Canton shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(G) North Canton may impose on the taxpayer, employer, any agent of the employer, or any other payer North Canton's post-judgment collection costs and fees, including attorney's fees. (Ord. 101-2017. Passed 12-4-17.)

**192.25 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(A) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 192.12 and Section 192.99 hereof.

(B) Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 192.05 and Section 192.04 of this ordinance as though the same were continuing. (Ord. 62-2015. Passed 11-9-15.)

**192.26 ELECTION TO BE SUBJECT TO R.C. 718.80 TO 718.95.**

(A) The City of North Canton hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the Ohio Revised Code for tax years beginning on or after January 1, 2018.

(B) A taxpayer, as defined in division (C) of this section, may elect to be subject to Sections 718.80 to of the Revised Code in lieu of the provisions of this Ordinance.

(C) "Taxpayer" has the same meaning as in section 718.01 of the Revised Code, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the Revised Code. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer. (Ord. 31-2018. Passed 5-14-18.)

**192.99 VIOLATIONS; PENALTIES.**

(A) Whoever violates Section 192.17, division (A) of Section 192.16, or Section 192.04 by failing to remit North Canton income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than \$1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee, or official, of North Canton, the individual is subject to discharge from employment or dismissal from office.

(B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 192.16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. If the individual that commits the violation is an employee, or official, of North Canton, the individual is subject to discharge from employment or dismissal from office.

(C) Each instance of access or disclosure in violation of division (A) of Section 192.16 constitutes a separate offense.

(D) If not otherwise specified herein, no person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this ordinance;
- (2) File any incomplete or false return;
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance;

- (4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
- (5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;
- (6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;
- (7) Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Administrator authorized hereby;
- (8) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;
- (9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance.

(E) Any person who violates any of the provisions in Section 192.99 (D) shall be subject to the penalties provided for in Section 192.99 (A) of this ordinance.  
(Ord. 62-2015. Passed 11-9-15.)

6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
  - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
  - b. The person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this

Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

- (2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or (B), or any other equivalent offense shall do both of the following:
- A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
  - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
- (2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
- (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
- (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)

(d) Physical Control.

- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
- (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
  - 1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
  - 2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.

As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.

- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
- A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
  - B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
  - C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (8) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.

(i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

- (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.
- (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.



- (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1416 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Ohio R.C. 2929.24.
- (4) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section.  
(ORC 4511.19)

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 5119 Standards.

- (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
- (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193. (ORC 4511.193)

(q) Definitions. As used in this section:

(1) "Equivalent offense" means any of the following:

- A. A violation of division (A) or (B) of Ohio R.C. 4511.19;
- B. A violation of a municipal OVI ordinance;
- C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
- D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
- E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07; or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
- F. A violation of division (A) or (B) of Ohio R.C. 1547.11;
- G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
- H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;
- I. A violation of a former law of this State that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;

(2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:

- A. Except as specifically authorized under this section, the term must be served in a jail.
- B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (b) hereof has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(e) All fines collected for violations of subsection (b) hereof shall be forwarded to the Treasurer of State for deposit as provided in Ohio R.C. 4513.263.

- (f) (1) Subject to subsection (f)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(1) or (3) or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device, in violation of subsection (b)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But the trier of fact may determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in Ohio R.C. 2307.011 in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.
- (2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:
- A. It seeks to recover damages for injury or death to the occupant.
  - B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.
  - C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

- (g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).
- (2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).

- (3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree.  
(ORC 4513.263)

**337.28 USE OF SUNSCREENING, NONTRANSPARENT AND REFLECTORIZED MATERIALS.**

**(a) Requirements.**

- (1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State with any suncreening material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:
- A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>.
  - B. Any sunscreening material or other product or material applied to the windshield when used in conjunction with the safety glazing materials of such window, has a light transmittance of not less than seventy per cent plus or minus three per cent and is not red or yellow in color.
  - C. Any sunscreening material or other product or material applied to the side windows to the immediate right or left of the driver, so long as such material, when used in conjunction with the safety glazing materials of such windows, has a light transmittance of not less than fifty per cent plus or minus three per cent and is not red or yellow in color.
  - D. Any sunscreening material or other product or material applied to a window not otherwise listed in subsections (a)(1)A. to C. or E. of this section, except that outside left and right rear view mirrors are required if the sunscreening material is applied to the rear window and the sunscreening material, when used in conjunction with the safety glazing material of such window, has a light transmittance of less than fifty per cent plus or minus three per cent.
  - E. Any sunscreening material or other product or material applied along the top of the windshield and that does not extend downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.
- (2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.

- (3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.
- (4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.
- (5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.
- (6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying sunscreening material. All sunscreening material must indicate the manufacturer's name and the percentage level of light transmission of the material permanently installed between the material and the surface to which the material is applied or affixed. Such label must be legible and must be placed in the lower left-hand corner of the vehicle window when viewed from the outside. (OAC 4501-41-03)

(b) Exemptions. The provisions of this section do not apply to:

- (1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with sunscreening material which would be of a light transmittance and/or luminous reflectance in violation of this section. Such affidavit shall be in the possession of the person so afflicted or the driver at all times while in the motor vehicle;
- (2) The windows to the rear of the driver in chauffeured limousines as defined herein;
- (3) The windows to the rear of the driver in those vehicles designed and used to transport corpses which include hearses and other vehicles adapted for such use; and
- (4) The manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle as provided in subsection (a) hereof. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>. (OAC 4501-41-05)

(c) Definitions. As used in this section, certain terms are defined as follows:

- (1) "Motor vehicle" has the same meaning as specified in Section 301.20.
- (2) "Sunscreening material" means products or materials, including film, glazing and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduce the effects of the sun with respect to light reflectance or transmittance.
- (3) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
- (4) "Windshield" means the front exterior viewing device of a motor vehicle.
- (5) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.

- (6) "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of sunscreening products or materials or any person who fabricates, laminates or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.
- (7) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an arrangement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.  
(OAC 4501-41-02)

(d) Penalty. Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4513.241)

### 337.29 BUMPER HEIGHTS.

(a) Definitions.

- (1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.
- (2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.
- (3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.
- (4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.
- (5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.
- (6) "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body, floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.
- (7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.
- (8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.
- (9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

## CHAPTER 513 Drug Abuse Control

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| <p>513.01 Definitions.</p> <p>513.02 Gift of marihuana.</p> <p>513.03 Drug abuse; controlled substance possession or use.</p> <p>513.04 Possessing drug abuse instruments.</p> <p>513.05 Permitting drug abuse.</p> <p>513.06 Illegal cultivation of marihuana.</p> <p>513.07 Possessing or using harmful intoxicants.</p> <p>513.08 Illegally dispensing drug samples.</p> <p>513.09 Controlled substance or prescription labels.</p> | <p>513.10 Hypodermic possession, display and dispensing.</p> <p>513.11 Harmful intoxicants; possessing nitrous oxide in motor vehicle.</p> <p>513.12 Drug paraphernalia.</p> <p>513.121 Marihuana drug paraphernalia.</p> <p>513.13 Counterfeit controlled substances.</p> <p>513.14 Offender may be required to pay for controlled substance tests.</p> <p>513.15 Medical marijuana.</p> <p>513.99 Penalty.</p> |
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### CROSS REFERENCES

See sectional histories for similar State law

Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19

Analysis report and notarized statement as evidence - see Ohio R.C. 2925.51

Criteria for granting probation - see Ohio R.C. 3719.70(B)

Adulterating food with drug of abuse - see GEN. OFF. 537.13

Using weapons while under the influence - see GEN. OFF. 549.03.

### 513.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
- (b) "Controlled substance" means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.
- (c) "Dispense" means sell, leave with, give away, dispose of or deliver.
- (d) "Distribute" means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.
- (e) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.

- (f) "Manufacturer" means a person who manufactures a controlled substance as "manufacture" is defined in Ohio R.C. 3715.01.
- (g) Except as provided in subsection (g)(2) hereof:
  - (1) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)
  - (2) "Marihuana" does not include hashish. (ORC 2925.01)
- (h) "Controlled substance analog" has the same meaning as provided in Ohio R.C. 3719.01.
- (i) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law.
- (j) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.
- (k) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.
- (l) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.
- (m) "Licensed health professional authorized to prescribe drugs", "prescriber" and "prescription" have the same meanings as in Ohio R.C. 4729.01.
- (n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.



**513.08 ILLEGALLY DISPENSING DRUG SAMPLES.**

(a) No person shall knowingly furnish another a sample drug.

(b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741.

(c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
- (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.36)

**513.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.**

(a) As used in this section, "repackager" and "outsourcing facility" have the same meanings as in ORC 4729.01.

Whenever a manufacturer sells a controlled substance, and whenever a wholesaler, repackager, or outsourcing facility sells a controlled substance in a package the wholesaler, repackager or outsourcing facility has prepared, the manufacturer or the wholesaler, repackager or outsourcing facility, as the case may be, shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription shall alter, deface or remove any label so affixed.

(b) Except as provided in subsection (c) of this section, when a pharmacist dispenses any controlled substance on a prescription for use by a patient, or supplies a controlled substance to a licensed health professional authorized to prescribe drugs for use by the professional in personally furnishing patients with controlled substances, the pharmacist shall affix to the container in which the controlled substance is dispensed or supplied a label showing the following:

- (1) The name and address of the pharmacy dispensing or supplying the controlled substance;
- (2) The name of the patient for whom the controlled substance is prescribed and, if the patient is an animal, the name of the owner and the species of the animal;
- (3) The name of the prescriber;
- (4) All directions for use stated on the prescription or provided by the prescriber;

- (5) The date on which the controlled substance was dispensed or supplied;
- (6) The name, quantity and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.

(c) The requirements of subsection (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.

(d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division (A) of ORC 4729.291 with respect to labeling and packaging of the controlled substance.

(e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.

(f) Every label for a schedule II, III or IV controlled substance shall contain the following warning:

"Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed". (ORC 3719.08)

(g) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99)

#### **513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.**

(a) Possession of a hypodermic is authorized for the following:

- (1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
- (2) Terminal distributor of dangerous drugs, in the regular course of business;
- (3) A person authorized to administer injections, in the regular course of the person's profession or employment;
- (4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
- (5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;
- (6) A farmer, for the lawful administration of a drug to an animal;
- (7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person. (ORC 3719.172)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree. (ORC 3719.99)

**513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.**

(a) As used in this section, "motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.

(b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

- (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;
- (2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.

(d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. (ORC 2925.33)

**513.12 DRUG PARAPHERNALIA.**

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:

- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
- (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marijuana;
- (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;

- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
- (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;
- (3) The proximity of the equipment, product or material to any controlled substance;
- (4) The existence of any residue of a controlled substance on the equipment, product or material;
- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
- (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
- (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
- (8) National or local advertising concerning the use of the equipment, product or material;
- (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
- (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
- (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
- (12) Expert testimony concerning the use of the equipment, product or material.

- (c)
  - (1) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
  - (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.

- (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.
- (e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12.
- (f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.14)

#### **513.121 MARIHUANA DRUG PARAPHERNALIA.**

(a) As used in this section, "drug paraphernalia" has the same meaning as in Section 513.12.

(b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 513.12.

(c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

(d) This section does not apply to any person identified in subsection (d)(1) of Section 513.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.

(e) Subsection (e) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(f) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.141)

#### **513.13 COUNTERFEIT CONTROLLED SUBSTANCES.**

(a) No person shall knowingly possess any counterfeit controlled substance.

(b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)

(c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.37)

#### **513.14 OFFENDER MAY BE REQUIRED TO PAY FOR CONTROLLED SUBSTANCE TESTS.**

In addition to the financial sanctions authorized or required under Ohio R.C. 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under Ohio R.C. 2925.51, or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance.

( The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as part of the sentencing hearing for the offender.  
(ORC 2925.511)

**513.15 MEDICAL MARIJUANA.**

(a) The cultivation, processing, and retail dispensing of marijuana for medical purposes, as defined in Chapter 3796 of the Ohio Revised Code, is hereby specifically prohibited with the City of North Canton.

(b) For the purpose of this section, "medical marijuana" shall have the same meaning as defined in Section 3796.01(A)(2) of the Ohio Revised Code.  
(Ord. 2-2018. Passed 1-22-18.)

**513.99 PENALTY.**

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

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**529.07 OPEN CONTAINER PROHIBITED.**

(a) As used in this section:

- (1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.
- (2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

- (1) Except as provided in subsection (c)(1)E. hereof, in an agency store;
- (2) Except as provided in subsection (c) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
- (3) In any other public place;
- (4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
- (5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.

(c) (1) A person may have in the person's possession an opened container of any of the following:

- A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7 or F-8 permit;
- B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2 permit holder or S permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
- C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
- D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
- E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.

- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

- (3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.
- B. As used in subsection (c)(3)A. of this section:
1. "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.
  2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.
- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.
- (5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:
- A. An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;
- B. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.
- As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.
- (6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:
1. The person is attending a racing event at the facility; and
  2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;
- B. As used in subsection (c)(6)A. of this section:
1. "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
  2. "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:

- a. It is two and four-tenths miles or more in length.
  - b. It is located on two hundred acres or more of land.
  - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
  - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.
- (7) A. A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under Ohio R.C. 4301.82, if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:
  1. The permit holder's premises is located within the outdoor refreshment area.
  2. The permit held by the permit holder has an outdoor refreshment area designation.
- B. Subsection (c)(7) of this section does not authorize a person to do either of the following:
  1. Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
  2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under subsection (d) or (e) of this section.
- (8) A. A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:
  1. The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;
  2. The market is hosting an event pursuant to an F-8 permit and the market has notified the Division of Liquor Control about the event in accordance with division (A)(3) of Ohio R.C. 4303.208.
- B. As used in subsection (c)(8) of this section, market means a market, for which an F-8 permit is held, that has been in operation since 1860.

(d) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of such a person, when all of the following apply:

- (1) The person or guest is a passenger in the limousine;
- (2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
- (3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

- (1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.
- (2) The opened bottle of wine that is resealed in accordance with subsection (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

(f) (1) Except if an ordinance or resolution is enacted or adopted under subsection (f)(2) of this section, this section does not apply to a person who, pursuant to a prearranged contract, is a passenger riding on a commercial quadricycle when all of the following apply:

- A. The person is not occupying a seat in the front of the commercial quadricycle where the operator is steering or braking.
- B. The commercial quadricycle is being operated on a street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
- C. The person has in their possession on the commercial quadricycle an opened container of beer or wine.
- D. The person has in their possession on the commercial quadricycle not more than either thirty-six ounces of beer or eighteen ounces of wine.

(2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as applicable, that prohibits a passenger riding on a commercial quadricycle from possessing an opened container of beer or wine.

(3) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:

- A. It has four wheels and is operated in a manner similar to a bicycle.
- B. It has at least five seats for passengers.
- C. It is designed to be powered by the pedaling of the operator and the passengers.
- D. It is used for commercial purposes.
- E. It is operated by the vehicle owner or an employee of the owner.

(g) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.

As used in subsection (g) of this section, "market" means an establishment that:

- (1) Leases space in the market to individual vendors, not less than fifty percent of which are retail food establishments or food service operations licensed under Ohio R.C. Chapter 3717;
- (2) Has an indoor sales floor area of not less than twenty-two thousand square feet;
- (3) Hosts a farmer's market on each Saturday from April through December. (ORC 4301.62)

(h) Whoever violates this section is guilty of a minor misdemeanor.  
(ORC 4301.99(A))

**529.08 HOURS OF SALE OR CONSUMPTION.**

(a) This rule shall apply to the retail sale of beer, wine, mixed beverages, or spirituous liquor.

(b) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-1c, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, F-7, F-8, F-9, G or I permit holder:

- (1) From Monday to Saturday between the hours of one a.m. and five thirty a.m.
- (2) On Sunday between the hours of one a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

(c) No beer, wine, mixed beverages, or spirituous liquid shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5G, D-5I, D-5J, D-5L, D-5m, D-5n, D-5o, or D-7 permit holder:

- (1) From Monday to Saturday between the hours of two thirty a.m. and five thirty a.m.
- (2) On Sunday between the hours of two thirty a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.

(d) Permit holders authorized to sell beer, wine, mixed beverages, or spirituous liquor at retail who are not specifically identified in subsection (b) or (c) above shall be subject to the provisions of subsection (b), unless statutorily authorized otherwise.

(e) The hours on Sunday during which sales, delivery, or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to five thirty a.m. (OAC 4301:1-1-49)

(f) Whoever violates this section is guilty of a minor misdemeanor.

**529.99 PENALTY.**

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)



**537.13 ADULTERATING OF OR FURNISHING ADULTERATED FOOD OR CONFECTION.**

(a) No person shall do either of the following, knowingly or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

- (1) Place a pin, needle, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;
- (2) Furnish to any person any food or confection which has been adulterated in violation of subsection (a)(1) hereof. (ORC 3716.11)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.  
(ORC 3716.99(C))

**537.14 DOMESTIC VIOLENCE.**

(a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(b) No person shall recklessly cause serious physical harm to a family or household member.

(c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

- (d)
- (1) Whoever violates this section is guilty of domestic violence.
  - (2) Except as otherwise provided in subsection (d)(3) to (5) of this section, a violation of subsection (c) of this section is a misdemeanor of the fourth degree, and a violation of subsection (a) or (b) of this section is a misdemeanor of the first degree.
  - (3) Except as otherwise provided in subsection (d)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of Ohio R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the second degree.
  - (4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in subsection (d)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the first degree.

- (5) Except as otherwise provided in subsection (d)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate State law, and a violation of subsection (c) of this section is a misdemeanor of the third degree.

(e) Notwithstanding any provision of law to the contrary, no court or unit of local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.

(f) As used in this section:

- (1) "Family or household member" means any of the following:

A. Any of the following who is residing or has resided with the offender:

1. A spouse, a person living as a spouse or a former spouse of the offender;
2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender;
3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.

B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

- (2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question. (ORC 2919.25)

(g) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section.

### **537.15 TEMPORARY PROTECTION ORDER.**

(a) No person shall recklessly violate the terms of any of the following:

- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
- (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
- (3) A protection order issued by a court of another state.

- (b) (1) Whoever violates this section is guilty of violating a protection order.
- (2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.
- (3) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:
- A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;



- B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;
  - C. One or more violations of this section.
- (4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.
  - (5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed three hundred thousand dollars per year.

(c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

(e) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child. (ORC 2919.27)

**537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS.**

(a) As used in this section:

- (1) "Age verification" means a service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is eighteen years of age or older.
- (2) A. "Alternative nicotine product" means, subject to subsection (a)(2)B. of this section, an electronic cigarette or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving or inhaling.  
B. "Alternative nicotine product" does not include any of the following:
  1. Any cigarette or other tobacco product;
  2. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
  3. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
  4. Any product that is a "combination product" as described in 21 U.S.C. 353(g).
- (3) "Child" has the same meaning as in Ohio R.C. 2151.011.
- (4) "Cigarette" includes clove cigarettes and hand-rolled cigarettes.
- (5) "Distribute" means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.
- (6) A. "Electronic cigarette" means, subject to subsection (a)(6)B. of this section, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe.  
B. "Electronic cigarette" does not include any item, product or device described in subsections (a)(2)B.1. to 4. of this section.
- (7) "Proof of age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.
- (8) "Tobacco product" means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco or snuff.
- (9) "Vending machine" has the same meaning as "coin machine" in Ohio R.C. 2913.01.